

**MINUTES
BOARD OF ZONING APPEALS**

August 25, 2014

The Warsaw Board of Zoning Appeals met for regular session on Monday, August 25, 2014 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

Present: Tom Allen, Jack Wilhite, Ron Shoemaker, Tammy Dalton, Mike Valentine (City Attorney), Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Rick Keeven

CALL TO ORDER

Allen called the meeting to order.

The July 28, 2014 meeting minutes were reviewed and presented for approval. Wilhite made a motion to approve the July 28, 2014 meeting minutes as presented; Dalton seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2014 – 08 - 01 – Variance from Development Standards- . Argonne Rd. –Freedom Express-

The petitioner has requested a Variance from Development Standards to permit a 25' tall 45 square foot sign and a zero foot setback. The zero foot setback includes any structure, as well as the sign. Mr. Cobb is requesting to erect a canopy over the pumps, in front of the building as well as an oversized sign.

The eight foot sign height limit in C-2 is intended to minimize negative effects of commercial activity when placed near less intense uses. In this case, the C-2 zoning is surrounded by more intense industrial property.

In addition, the lot for which the sign is requested is restricted in size due to its location in the historic core of the City. This makes site layout difficult, necessitating some exceptions.

These things combined make it impractical to conform to the zoning ordinance. The sign request is consistent with the intent of the zoning ordinance in providing for safe vision clearance, while relating to the context of the immediate area.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance from Development Standards to permit an oversized sign with a zero foot setback in a C-2 zoning district located at 425 Argonne Rd.

Attachments:

- 1) Findings of Fact
- 2) Aerial photo
- 3) Site Plan w/ sign location
 - a. Sign Dimensions and Design

Allen opened the meeting for any person to speak in favor or against the request for Variance from Development Standards.

Gregory Cobb of Freedom Oil was present to explain the request and answer any questions.

Bruce Woodward was present to speak in favor of the petition as a resident of Warsaw.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. Mr. Cobb will have to present a request to the Board of Public Works and Safety for an Encroachment Agreement after approval from the BZA.

Wilhite made a motion to approve *Item 2014 – 08 - 01 – Request for Variance from Development Standards*- Shoemaker seconded the motion. The motion passed unanimously.

Item 2014 – 08 - 02 – Variance from Development Standards-1307 Ranch Rd.-Tony Griffith-

The petitioner has requested a Variance from Development Standards to permit a detached garage in the required front yard.

The location will not be a safety concern if it conforms to the 10 foot front setback for vision and clearance. This location will minimize street cuts as well. This is a corner lot with two street frontages. The orientation of the home, as well as the two streets it borders, make it difficult to place a detached accessory structure in the rear and still function efficiently.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance from Development Standards to permit a detached accessory structure in the front yard in an R-1 zoning district located at 1307 Ranch Rd.

Attachments:

- 4) Findings of Fact
- 5) Aerial photo
- 6) Sketch with placement

Allen opened the meeting for any person to speak in favor or against the request.

Tony and Deb Griffith were present to clarify the request and answer any questions from the Board. They explained the desire to make the accessory structure match the existing home aesthetically as well as meet their needs for parking.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. There were no further questions of Mr. and Mrs. Griffith.

Dalton made a motion to approve ***Item 2014 – 08 - 02 – Variance from Development Standards.*** Wilhite seconded the motion. The motion passed unanimously.

Item-2014-08-03-Variance from Development Standards-640 Deerfield Path-Shawna Howard-

The petitioner has requested a Variance from Development Standards to permit a fence on the West side of the property, within the 10' vision clearance setback on a public right of way (street). The property in question is a corner lot, on the intersection of a subdivision entrance and a County Road. 600' to the South, CR 225 E terminates at the back entrance to DePuy Synthes. The right of way extends approximately 17' past the edge of the street and includes utilities and a drainage ditch.

This property is unique because the property to the south previously built a fence on the rear property line, adjacent to the road right of way. This restricts vision of the corridor. However, because of the geometry of the subdivision entrance, the width of the right of way, and the proximity of Old 30, the vision of drivers exiting the subdivision is not impaired.

Considering the sight lines and current conditions, Dombrosky does not anticipate any problems if a fence is built adjacent to the property line.

This request primarily results from the presence of the fence to the South. In order to maintain maximum value for this property and allow the property to be fully utilized, Dombrosky would recommend making an exception in this case.

The Comprehensive Plan could dictate that this street be improved in the future, and in that case the curb line could shift, and other utilities could be present near the petitioner's property line. For this reason, Dombrosky recommended a tapered setback of 10' beginning at the North West corner of the proposed fence, reducing to 0' at the South West corner. This would allow adequate vision clearance in the event of a road expansion and addition of a right turn lane into the subdivision.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Attachments:

- 7) Findings of Fact
- 8) Aerial photo with Recommended Fence Location
- 9) Vision Clearance Regulations

Allen opened the meeting to any person wishing to speak in favor or against the petition.

No person was present to speak in favor or against the request. The public portion of the meeting was closed.

The Board discussed the petition.

Dalton made a motion to approve *Item-2014-08-03-Variance from Development Standards*-Shoemaker seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, September 22, 2014

Dalton made a motion to adjourn the meeting; Shoemaker seconded the motion. The motion carried unanimously. Allen adjourned the meeting.

Tom Allen, President

Kim Arnold, Recording Secretary